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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,797	05/12/2005	Michael Roreger	512100-2047	9006
7590 04/16/2007 Frommer Lawrence & Haug 745 Fifth Avenue New York, NY 10151			EXAMINER HWU, DAVIS D	
			ART UNIT 3752	PAPER NUMBER

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/534,797

Applicant(s)

ROREGER ET AL.

Examiner

Davis D. Hwu

Art Unit

3752

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 5/12/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-14, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fritz et al. in view of Fox et al.

Fritz et al. discloses a dispenser for controlled release of volatile substances comprising a reservoir 20 containing at least one volatile substance 24, a first control element 38 which is pressure sensitive and exerts a control function which is dependent on the physical properties of the at least one substance 24 and the material properties of the constituents of the first control element and a second control element 35 which exerts a control function which is independent of the physical properties of the at least one substance and the material properties of the first control element. Fritz et al. do not disclose the first control element being an adhesive. Fox et al. teaches a dispenser for controlled release of volatile substances comprising a reservoir 11 containing at least one volatile substance and a control element 12 having adhesive for bonding to a surface. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Fritz et al. by providing an adhesive to the first control element to bond the element onto a surface as taught

Art Unit: 3752

by Fox et al. By providing adhesive to the first control element, the first control element becomes an adhesive piece. Regarding claim 3, the at least one volatile substance is not released through the second control element 35 thus making the second control element impermeable to the at least one volatile substance. Since element 35 is permeable, it comprises gaps through which the volatile substance escapes. Regarding claim 10, Fox et al. also teaches that the control element being a permeable material comprising a synthetic polymer, so it would also have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Fritz et al. by using a material which is permeable and comprises a natural or synthetic polymer or blend thereof as taught by Fox et al. Regarding claim 11, the second element 35 is a thin film and the thickness as recited would have been a matter of design choice since a modification involves a mere change in the size of a component which is generally recognized as being within the level of ordinary skill in the art and the shapes as recited in claim 12 would have been matters of design choice since it involves a mere change in the shape of a component. The volatile substance as recited in claim 14 would have been a matter of design preference.

Allowable Subject Matter

3. Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Art Unit: 3752

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Martens et al. and Sieverding are pertinent to Applicant's invention.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davis D. Hwu whose telephone number is 571-272-4904. The examiner can normally be reached on 8:00-4:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Primary Examiner